

ASSEMBLY BILL

No. 31

Introduced by Assembly Member Charles Calderon

September 5, 2008

An act to repeal Sections 24302 and 24305 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 31, as introduced, Charles Calderon. Corporate income taxes: exclusions: life insurance proceeds.

The Corporate Income Tax Law provides an exclusion from gross income in computing tax liability for any amounts received under life insurance, endowments, or annuity contracts, either during the term or at maturity or upon surrender of the contract equal to the total amount of premiums paid thereon, other than amounts paid by reason of the insured's death. The Corporate Income Tax Law also provides an exclusion from gross income for any amounts received under life insurance policies and contracts paid by reason of the insured's death.

This bill would repeal those exclusions and include those amounts in gross income when computing tax liability.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 10, 2008, pursuant to the California Constitution.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24302 of the Revenue and Taxation Code
2 is repealed.

3 ~~24302. Amounts received other than amounts paid by reason~~
4 ~~of the death of the insured under life insurance, endowment or~~
5 ~~annuity contracts, either during the term or at maturity or upon~~
6 ~~surrender of the contract, equal to the total amount of premiums~~
7 ~~paid thereon. In the case of a transfer for a valuable consideration~~
8 ~~by assignment or otherwise, of a life insurance, endowment or~~
9 ~~annuity contract or any interest therein, only the actual value of~~
10 ~~such consideration and the amount of the premiums and other sums~~
11 ~~subsequently paid by the transferee shall be excluded from gross~~
12 ~~income under Section 24305 or this section. The preceding sentence~~
13 ~~shall not apply in the case of such a transfer if such contract or~~
14 ~~interest therein has a basis for determining gain or loss in the hands~~
15 ~~of a transferee determined in whole or in part by reference to such~~
16 ~~basis of such contract or interest therein in the hands of the~~
17 ~~transferor or to a corporation in which the insured is a shareholder~~
18 ~~or officer.~~

19 SEC. 2. Section 24305 of the Revenue and Taxation Code is
20 repealed.

21 ~~24305. (a) Except as provided in subdivision (b), amounts~~
22 ~~received under life insurance policies and contracts paid by reason~~
23 ~~of the death of the insured but if such amounts are held by the~~
24 ~~insurer under an agreement to pay interest thereon, the interest~~
25 ~~payments shall be included in gross income.~~

26 ~~(b) Proceeds of flexible premium contracts payable by reason~~
27 ~~of death shall be excluded from gross income only in accordance~~
28 ~~with the provisions of Section 101(f) of the Internal Revenue Code.~~

29 SEC. 3. This act addresses the fiscal emergency declared by
30 the Governor by proclamation on January 10, 2008, pursuant to
31 subdivision (f) of Section 10 of Article IV of the California
32 Constitution.

1 SEC. 4. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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